

MAINE STATE LEGISLATURE

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JOINT SPECIAL LEGISLATIVE INVESTIGATING COMMITTEE

Testimony of Franz U. Burkett

Re: Attorney General

State House, Augusta, Thursday, Sept. 17, 1940. Counsel:
Donald W. Webber
Hubert Ryan

Thursday, Sept. 17, 1940.

FRANZ U. BURKETT recalled and testified as follows:

(By Mr. Donald W. Webber)

Q. I show you Mr. Burkett Testimony of October 17th. Exhibit 1, group of photostatic copies of checks, and ask you what those are?

A. Those are photostatic copies of certain checks that had been cashed by Mr. Winship while he was Deputy Treasurer of State for William A. Runnells, according to our best information. I don't know how many are there, but there were twenty-eight of them in all.

Q. Where are the original checks?

A. They are down in a cupboard in the Treasurer's vault.

Q. And these were to have furnished the basis of some evidence in criminal action against Mr. Runnells if he had not plead guilty -- is that right?

A. That is right.

Q. Is there any objection on the part of your department to having these now become a part of our record?

A. The originals?

Q. No; these photostatic copies.

A. No, certainly not. You can have the originals if you want them.

Q. Now I note, Mr. Burkett, that there is no endorsement by Mr. Runnells or anyone else on these checks, and can you explain what the procedure was that was employed and as to how it was possible for that to be done, I mean for these to be cashed?

A. Well, Mr. Runnells or someone in his office would draw, I think he called it a voucher, showing that some money was

due someone, and then would prepare these checks to go along with it. To take a specific illustration: The State made an agreement with the Federal government to charge a certain amount every year to be paid to the State by the Unemployment Compensation Commission out of its Federal funds to cover the additional cost that was imposed upon the State by the large number of checks that the Commission used, and that amount was fixed at -- I can't remember the amount, but it was up in the thousands of dollars, and some of these checks in there represent purporting to be made by the Unemployment Compensation Commission to the State for that service, and he would draw a voucher making the check payable to the Bureau of Accounts and Control, take it in to Mr. Winship, who personally cashed it without any indorsement or any other formality at all, and he got the money and kept it so far as we know. Other checks would be for other specific purposes, I can't recall the particular amount, I haven't the records with me, but they were all, as far as the records showed properly vouchered.

Q. Should an indorsement have been required where those were cashed in the Treasurer of State's office?

A. Well, they shouldn't have been cashed in the Treasurer of State's office.

Q. They should have cleared through a bank?

A. Yes, they should have cleared through the bank. They shouldn't have been cashed. Winship shouldn't have cashed them even with an endorsement and given him the money, first, because he wasn't bonded and under the Code was not contemplated to have handled any money, and I do not think he

would have had any authority to endorse them, I do not think his endorsement on there would have been regular or that it would have helped them.

Q. As a matter of fact, it was substituting a check method for what should have normally been simply a bookkeeping procedure, isn't that right?

A. Yes; there was no necessity for a check at all.

Q. Do you know what is being done at the present time? Would such matters as this be handled entirely as bookkeeping transactions without any checks passing?

A. Well, I was surprised to find when we were investigating that they used checks similar to that in all interdepartmental transfers. I had not known they were, in fact my recollection is I had been told they were not. You can understand there is an enormous quantity of interdepartmental transactions. For instance, we will say a department head takes a State car up to the garage and has it repaired. The garage charges that department for the repairs or for some gasoline or what not, and I had supposed that all of those were handled simply by vouchers sent back and forth and bookkeeping entries, but I understood now that there were checks drawn on all of these, and I never could see any reason for doing it. To answer your specific question, I don't know how it is being handled now.

CHAIRMAN TOMPKINS: You mean you do not see any business reason for it?

A. No; any kind of reason.

Q. (By Mr. Webber) Except Mr. Runnells possibly desired to have that system operate for his benefit?

A. Yes; because of that system it would be to his advantage

to have it general in order to explain it. He apparently kept that system in effect, although just the matter of drawing those checks was a great~~x~~ added expense on the State, because, as I understand, these check machines which we simply lease are paid for in accordance with the number of ~~checks~~ checks that are drawn.

Q. The purpose of my last question is this: Can we be assured that the system is now so far modified as to prevent the possibility of anything like that in the future?

A. I can't tell you that. I don't know how they are running it now or what changes they are contemplating. Under that system the way it is there, assuming a dishonest Controller and a complacent or negligent ~~XXXXX~~ Deputy Treasurer of State, the same thing could happen again.

(Off record)

The complete contents of these boxes were incorporated in the bill in equity and published in the newspapers in detail, and as far as I am concerned, if there is any question in your mind there is anything in there, I think I could arrange to have them opened and have you go down and examine them. I would be very glad to. Charles Nelson made the list, and Captain Young of the State Police called them off. I think there were five or six people at the opening. As soon as they were opened and the contents listed, the keys, by agreement of all parties have been in the possession of Justice Hudson.

Q. And there are no evidences of personal obligations found in those boxes?

A. No; nothing except what was listed. If there is any public feeling that those things are there, I should be very

glad to cooperate and have them opened and have you go through them.

(Off record)

Q. Don't you think it should appear on the record who those five or six persons were who were there when the boxes were opened?

A. I cannot answer that from memory. I should have to get Mr. Nelson to come up here with his lists and records, because I was not present myself at all of them and he has the list.

CHAIRMAN TOMPKINS: That might be a good suggestion, to have Mr. Nelson come in.

A. I will be glad to get him. He has all those papers.

(Off record)

Q. (By Mr. Webber) Now, on the record, I show you Mr. Burkett Testimony of October 17th., Exhibit 2 and ask you what those are?

A. Those are some apparently original council orders that were found in Mr. Runnell's desk when we cleaned it out.

Q. All bearing the signatures of former Governor Brann and the Council which served with Mr. Brann?

A. Well, they don't all bear the signature of all the councillors, but they are signed by Governor Brann and some or all of the council.

Q. They relate almost entirely if not entirely to salary increases of various employees? Is that right?

A. That is right.

Q. Now those council orders never bore any regular order number, did they?

A. No.

Q. And never went to the Secretary of State's office to become a matter of public record?

A. That is what I understand.

Q. How does your investigation indicate that those particular council orders were handled, as near as you know?

A. I do not think we made any investigation of it at all. I don't know of my own knowledge that Mr. Ingalls, and I am sure I never did made any inquiry about it.

Q. Those council orders were acted upon, were they not?

A. I understand so.

Q. And payments made under them?

A. That is right.

Q. So far as you know, has there ever been anything like that done under the present administration?

A. No; I never knew of it. It may have been done, but I never knew of it. I didn't realize there were so many of them there when you asked me for them. I had seen them before and knew that Mr. Ingalls had found them or somebody found them in the desk, but to my knowledge we never made any investigation of it.

Q. Now, Mr. Burkett, in our investigation of the Department of Health and Welfare, and particularly the Division of Old Age Assistance, we have found very definite evidences of a conflict existing between the officials of the Division of Old Age Assistance and the Old Age Commission, and the apparent sidetracking of the Commission and the lessening of its apparent authority. We find that the difficulty, at least a large part of it, apparently stems from the legal opinion given by your department, November 26, 1937, the original

of which is now on file with the present Commissioner of the Department of Health and Welfare, bearing your signature. I show you a copy of the opinion which you can look at, which in substance rules that the only power of the Old Age Assistance Commission is to recommend and that they have no final authority to determine eligibility or fix amounts of grants. I want to ask you at this time, first, whether you recall such an opinion.

A. I do.

Q. Now was that opinion prepared by you and signed by you, or was it prepared by some deputy in your department and signed by you on his recommendation?

A. No; I prepared it myself and signed it. I can tell you why, if you want to know. The idea of having an Old Age Assistance Commission originated with Governor Barrows, and at his request I drew up the bill which was passed. The Legislature adjourned for this special session as I recall it. A week or so after it adjourned down came one or more attorneys from the Social Security Board, and we were very definitely and positively told that the original plan of Old Age Assistance made in this State in accordance with their instructions and in accordance with plans made in other States, required that one single agency in the State must be the sole agency, and that had been in our original law the Department of Health and Welfare. Mr. Leadbetter was then the head. We were definitely told that the final decision in all matters of Old Age Assistance had to come from that department and that if we attempted to inject any other agency in between him and that department and the Social Security

Board in anything other than an advisory capacity, further grants to this State on Old Age Assistance would be withheld, and that would have been a calamity as we all know, and we had to write an opinion, or else lose our Old Age Assistance, that would subordinate the Old Age Assistance Commission to the Department of Health and Welfare, and I did it to save Old Age Assistance for the State, with the idea that the next session of the Legislature, if they wanted to, could correct the situation and modify it. That was why that was done. We all felt at the time that the Old Age Assistance Commission as the bill was drawn up was too broad, we were firmly convinced, after talking with the Social Security Board that under the Federal regulations and under our State Board we couldn't do that thing, that is we couldn't substitute someone in between the Department of Health and Welfare, and that we couldn't afford to lose our Old Age Assistance money, and so, with the approval or at the suggestion, if you want to call it, that was almost forced by the Social Security Board -- the man was here, and if I recall correctly, that opinion had his approval before he went away, and with the approval of the Governor and Mr. Leadbetter we had to do that. It is a somewhat strained construction, I will agree with you. They took it for what it was worth and continued our grants, and for the past three years around here I have been trying the best I knew how to reconcile the activities of the Old Age Assistance Commission and the Department of Health and Welfare. A good deal of the difficulties between those two organizations I have always felt could and should have been eliminated.

For one thing, when they started, they put the Old Age

Assistance Commission up here in the Senate retiring room right across from my office. There was immediate jealousy started, and I don't know who is to blame for it between the two organizations.

SENATOR LAUGHLIN: You said the two organizations. You don't consider the Commission as a part of the Health and Welfare agency?

A. No. The Commission were not getting along at all, and I took it upon myself to try to straighten it out. Miss Burleigh and Mr. Burgess were the members of the Commission that were here most of the time. I had two or three specific cases called to my attention down in Portland, claims that had been filed and which seemed to be desparate cases. I went in there, for instance, on two specific cases. The thing that called it to my attention were the Portland cases, and I went in there to inquire why these people were not getting their pensions, knowing that they were desparate cases. They said they had never been referred to them. I said, "Wont you look up and see where they are?" And Miss Burleigh took it upon herself to see where those cases were, and she called me back a while afterwards and said she had found them down to the Health and Welfare Department, they had never been turned over to the Commission. She got them and approved them and the people are getting their pensions they should have had.

Then they got into what I thought -- this is going on the record, and I cannot talk quite so plainly -- but I thought both of them were acting childishly about the thing. They had a hundred or more cases tied up because

of a minor disagreement, amounting in the aggregate to only a few dollars a month, about the amount of fuel allowance to be paid the pensioners, and there were some hundred cases held up for weeks because they couldn't agree on that fuel allowance, everything else being satisfactory to both parties. We got them together finally. And then they moved them down into the same building, and recently there has not been, to my knowledge, any great amount of trouble. The whole thing was the failure of the two bodies to cooperate. I don't know as that was anybody's fault. It certainly wasn't the fault of this opinion or of the law. They had a system under which if they wanted to work together there was no need of any disagreement over any cases or over any legal quibbling of who came first, the hen or the egg, and I said so very frankly to them.

(By Senator Laughlin)

Q. So far as you know, was that provision of the law as to the Commission referred to the Washington authorities before it was enacted?

A. I do not think it was.

Q. The statement was made to the Legislature, made to members of it, not formally to the Legislature, that it had been approved by Washington.

A. I don't know. I do know immediately after the Legislature adjourned and the Federal government knew about it there was greater difficulty. I recall distinctly the day I was called into the office -- I cannot remember the names of the people -- and told if we wanted Old Age Assistance we had got to keep the Department of Health and Welfare at the top of the pile, their decision must be final.

(By Chairman Tompkins)

Q. Previous to that there had been a plan drawn up by somebody and submitted to Washington which met with the approval of Washington?

A. In which the Department of Health and Welfare was the chief agent.

Q. The plan provided that the Commission should have the final decision in the matter, if I recollect.

A. I don't know.

(By Senator Laughlin)

Q. Couldn't the Commission be the final authority, just as much as one man? Couldn't the Commission be the final agency? That is one head, one department.

A. My remembrance is the original plan set up the Department of Health and Welfare.

Q. Would it not modify that law the moment the Legislature passed subsequent law giving the power to this Commission? That would, in effect, repeal that part of the law?

A. May I put this explanation in that changes the picture a little? We are dealing with the Social Security Board, not only on Old Age Assistance but on Mothers' Aid, Aid to the Blind, Aid to Dependent Children, and three or four others things, and their regulations seem to require that there must be one head in all of these various branches. In other words, the Department of Health and Welfare could not be the chief main agency in Old Age Assistance and some other department in something else. They insist, rightly or wrongly, that in their relations with the State there be one head of all these activities.

Q. All centered in the same part of a department?

A. That is right.

(By Mr. Webber)

Q. Now was this attitude on the part of the Federal Government reported to the next session of the Legislature which met after you gave this opinion?

A. Well, I don't know.

Q. Now is it your impression that the Social Security Board requires, in order to pay Social Security benefits to this State that either there be no Old Age Assistance Commission or, if there be one, it be only a rubber stamp?

A. Well, my impression is that they do require that all dealings with the Social Security Board be handled by one State agency, and that that agency in Maine must be the Department of Health and Welfare, and they won't agree to having a different head of one activity and a different head of another; the whole thing must be centered in one department. I don't know as that answers your question.

(By Senator Laughlin)

Q. Would it interfere with that if the Legislature appointed a specific Commission with control in that respect, with one head?

A. It is my personal feeling if you wanted to make the Old Age Assistance Commission the agency of the State, then you would have to make them also the head of these other branches, which always seemed to me sensible.

Q. Couldn't we make the powers of the Commission controlling on the head of the department through legislative action, keep the agency dealing with that, but couldn't we make their decisions control his action in that respect? That was certainly the intent of the Legislature.

A. I wouldn't be sure about that.
(By Senator Laughlin)

Q. It was definitely the intent that that Commission should be supreme so far as their action went and control the action of the Commissioner. Do you think that is an impossible legislative position?

A. That is my feeling.

Q. He can be the dealing agency, but he deals in accordance with their decisions on matters put in their hands.

A. I would think they would object to that, yes, from what I know of their position in this matter.

You understand this, of course, that the computation and allowance of Old Age Assistance claims, in theory at least, is in accordance with a formula. In other words, these people operate under a very definite and exhaustive and conclusive system, first, as to who is entitled, and, second, as to how much. Everything is in accordance with a rule and a multitude of rules that they have laid down. Really, if they follow the formula and follow the rules, there is not much discretion in anybody's power.

Q. There would be discretion in an individual case as to how much they were entitled to?

A. Yes; but even the amount of aid, fuel and doctors' bills is in accordance with complicated formulas worked out by the Social Security Board. In other words, the theory is that people get enough Old Age Assistance to supplement their present income, to put them on a budgetary basis, which is all in accordance with a series of formulas.

Q. You don't mean to say the Washington Commission would undertake to say how many ~~days~~ ^{dollars} a month each one of a thousand

dollars a month each one of a thousand cases were entitled to for fuel?

A. Very definitely, yes.

Q. That they would say this man is entitled^o to five dollars and this one to eight?

A. Yes.

Q. They would take up those individual cases in Washington?

A. Not necessarily in Washington, but their inspectors are down here all the time, and when they find we have given somebody too much fuel they could disallow it.

Q. The Washington inspectors could disallow the amount for fuel in an individual case?

A. If they found it wasn't in accordance with the formula, yes.

Q. They never have done that?

A. I wouldn't know whether they had or not. Of course the allowance of Old Age Assistance to any parson has to first be worked out by the field representative then brought in and approved by the Old Age Assistance Commission and then by the Department of Health and Welfare.

Q. That is just the point we are differing on.

A. Then if the Federal government found a person wasn't entitled to any Old Age Assistance or any particular amount was too big, they could disallow it.

Q. In that case they overrule whether it is the Commissioner or anybody else?

A. Yes.

Q. What I am trying to get at: So far as the State was concerned, when this legislation was passed, the agency that decides these things was meant to be the Commission?

A. I think that is true, that when that legislation was passed everybody thought that was what was going to happen.

(By Senator Laughlin)

Q. And couldn't that be true, the Commissioner is the agent that deals with the Federal authorities, but his decisions on that point are dictated to him by the Commission?

A. Of course the way that act was drawn -- I am speaking from memory -- it made the final decision on the Old Age Assistance Commission, which was the thing they said could not be done, that the final decision has got to be by the Department of Health and Welfare. Now if they had been willing to work together, there wouldn't have been any trouble.

Q. What I am trying to get at is whether there was presented to them the view that the Commissioner was the one agency, that in the State has determination in that respect was controlled by the action of the Commission. Now then, of course, they would have the supreme authority to overrule him or the Commission either, but he would state to the Federal authorities the decision that was arrived at by the Commission.

A. Their statement on the thing was very categorical. As far as their relations in the State of Maine, they insisted that the Department of Health and Welfare be the responsible final word. Whether or not they would agree to legislation that would say that admitting that fact we could have a Commission that controls his judgment--

Q. I repeat my question. Was that view presented to them, that the Commissioner was, under their rules the agent but his decision in those respects was dictated by the

Commission? Was that view presented to them?

A. Yes; there was a long discussion about it, lasting a couple of days, as I recall it, when they were here.
(By Senator Laughlin)

Q. That doesn't controvert the idea of one agency, but it does say what that one agency should be guided by.

A. Well, hasn't that been the way they have worked lately since things quieted down? I thought they were getting along pretty well from what I have heard. I discussed the matter with Mr. Burgess sometime ago.

(By Chairman Tompkins)

Q. Wouldn't this be true, Mr. Burkett, that the Old Age Assistance, Commission, their job might be interpreted simply as ^a recommendatory ^{body} that they could recommend to the Commissioner of Health and Welfare that the recommendation of the field workers or the Supervisor of Old Age Assistance be accepted, or they could recommend to him that it be rejected, and he in his judgment could adopt their views or reject them?

A. Yes.

SENATOR LAUGHLIN: The view he gave is certainly not the intent of the Legislature, and I am asking whether the intent of the Legislature could not be carried out nevertheless. It is not recommendatory but as far as the Commission is concerned it is obligatory.

A. I don't believe the Federal government would agree to that. They made it plain to me that they wouldn't.

CHAIRMAN TOMPKINS: As I understand it, this activity is an activity that is governed entirely by a formula?

A. Yes.

Q. (By Mr. Webber) Now isn't this a fair statement, that in order to satisfy the Federal government requirements and get this money, and at the same time have a clear exposition of the powers and responsibilities and duties as between the Commission and the officials of the State department, that the law should be changed either to remove the Old Age Assistance Commission or to make its powers conform with your opinion, in other words to be simply a recommending body?

A. I agree to that, yes.

Q. And that until that is done you have either on the one hand the refusal of the Federal government to participate or, on the other hand, a possible source of disgruntlement and disturbance as between an aggressive Commission and the officials of the State department?

A. Yes. I was faced with a very definite alternative in that thing, that either we would modify that law by the Attorney General's opinion or we would lose our Old Age Assistance, and at that time I thought it required that action. I still think so. I do not think the thing was ever serious enough to justify the losing of our Old Age Assistance, and I would do it over again in order to save the system. The opinion, as far as a legal opinion is concerned, would not bear very much investigation, but, strangely enough, it was insisted upon. I gave it because I thought I had to, and I still think it was the thing to do at that time, and the Legislature has met four times since then --

SENATOR BAUGHLIN: They haven't been informed of this situation, ever, at any time?

A. Well, it has been pretty generally discussed. I don't

know whether there was any formal notice ever given to the Legislature, and it might have been my duty to have informed the Legislature. If it is, I am sorry, but I do not think it was, because out of all this discussion I do not think anybody has been done any injustice, I do not think there is any claim, so far as I know, that should have been allowed that has not been, except for the delays I have mentioned. I do not think there is any reason why under the present statutes that Commission and Mr. Earnest and his people cannot work together and sit down and talk over cases and decide them according to these rules and regulations. There never was any excuse for their having this disagreement.

(Off record)

Q. (By Mr. Webber) Now I call your attention to Chapter 200 of the Public Laws of 1939, which created a Board of Sanitation, of which you are made a member ex officio, and ask you if there have ever been any meetings of that board?

A. Yes; we had meetings.

Q. More than one?

A. Hold on a minute. I guess I had better read it. You are talking about Section 1 or Section 2?

Q. Perhaps I had better read it too. I refer particularly to Section 1.

A. Yes; under Section 1 we had several meetings.

Q. What efforts have been made thus far, if any, to eliminate the duplication, and particularly duplication in inspection work?

A. Well, we got the Department of Agriculture and the Department of Health and Welfare together, the heads, and impressed upon them the necessity of eliminating useless travel

and useless inspection, asked them if they wouldn't keep in touch with each other and see if they couldn't send one man out instead of two, and I got out the bulletin to the heads of departments telling them that I was setting up in my office a method of taking care of travel and I asked them anytime they had a man going to any part of the State to let my office know and we would see if we couldn't get them together in one automobile. That was shortly after that became effective. The instances where we could do anything under it or where anybody called up were very few, but I am sure as a result of what meetings we have had there has been a lot of duplication saved and a lot of inspection saved by cooperation between Mr. Soule and Dr. Campbell.

Q. Now my understanding is that both departments take the position that that cannot be done, that their inspectors are trained to do a certain type of inspection and they cannot be expected to do anything else, and that the whole thing is impossible or impracticable, and that they have neither done much about it nor intend to. Now is that a fact? I assume that the act contemplated that you should more or less act as a referee between the two departments, and I wondered how much refereeing had been done.

A. I set up that system. I talked with the heads of the departments and they all took the same position you have outlined. If the Department of Agriculture has got a dairy to inspect, they have got to do it, they can't wait around another day to see if there is a car going

up in that area with a Health & Welfare man, and the man who is trained to dairy inspecting is not qualified to go and inspect plumping and roadside camps or what not, and they have got to more or less go their own way. I think there is some merit in that. I mean by that if there is anything in training or experience, that the man who is qualified to do a job of inspecting a restaurant, for instance, would not be much use going out and inspecting dairies, for instance. It is pretty hard to combine both qualifications in one man. We have tried to get them together in the same automobile when they have got to go up to Aroostook County, but it happens always that the man who was going up on the potato inspection would have to go to five or six towns and the other man would have to get home the next day to do something else, and it is practically impossible to do much along those lines, I am satisfied. I think the correction of the thing could come by cutting out a lot of inspections rather than trying to get them combined in one car.

(By Chairman Tompkins)

Q. How many assistant Attorney-generals have you in your office?

A. I have got three of them in hospitals now, and my deputy is on a two weeks' vacation. If any of you have any time, I would like some help. Mr. Folsom, who does the Health and Welfare work, is in the Maine General Hospital, suffering from the after-effects of an operation. (Off record)

Mr. Farris is an assistant. He does Workmen's Compensation, has done it for eight years. He is in the Bangor Hospital,

suffering from an infected leg, the third time he has been in the hospital. Mr. John Fessenden does Unemployment Compensation work. He has made a study of the Federal Social Security laws, and he is on a part-time basis down there, paid by them as Mr. Folsom is paid by the Health and Welfare.

Mr. William Gallegher does work for the Liquor Commission on a part time basis and he is paid out of their funds.

Of course you know Judge Fogg is deputy, and he has been there fifteen years and he is on two weeks facation. Mr. Stubbs does inheritance tax work, and he is an assistant Attorney General, as is Mr. Small in there.

Carl Fellows is an assistant and does the work for the Highway Department. Fogg is the only deputy. He does the office work. His time is pretty well taken up with departmental advice and advice to towns. He does all corporation approval work and bonds and contracts.

SENATOR LAUGHLIN: Nelson?

A. Nelson is not an assistant. I have employed him at different times, but he is not on a commission. Mr. Ingalls is on a commission. I don't know whether it has expired. I gave it to him for five or six months.

CHAIRMAN TOMPKINS: Those are specials?

A. Yes.

Q. Those you have named are the assistants?

A. Yes.

Q. (By Mr. Webber) Anybody with the insurance department?

A. No. I have always done the work for the insurance department. I offered Mr. Nelson a commission but he didn't take it because he didn't think he could stay. He is

working now for the Code Committee. He has helped me at times. Recently I had to send him down to Hancock County on an election case. He has also helped on this bill in equity and has been present at all the conferences on it.

MR. DOW: Did Leonard Pierce have an assistant's commission?

A. I do not think so.

Q. Just hired for that?

A. Just hired for that. I wouldn't be sure about that. I think I offered to give him one and he said he didn't want it. That situation down in the Health and Welfare Department, as far as the legal work is concerned, is very disturbing right now, because it is a highly specialized part of the law and requires a lot of work. Mr. Folsom is quite good at it. There ought to be a full-time man down there who would make himself a specialist on Social Security work, and who could farm out to lawyers, not assistants, around in the different counties, a lot of the detail work. For instance, we are beginning to have now a lot of claims against assets of persons who have received Old Age Assistance but have died leaving small amounts of money in the bank and home. We have collected quite a lot of it too.

MR. MACNICHOL: How is that handled on this collection?

Is the real estate auctioned off?

A. It is handled through the probate court. If the relatives do not petition for administration, we do, and if there is any real estate we put in a petition for license to sell it and get our own administrator appointed.

We got a case settled up yesterday down to Portland. A man died, and he had had three hundred dollars of Old Age Assistance, and we filed a claim against his estate and took, I guess, all there was, got \$260 of it. They are comparatively small amounts as yet, because Old Age Assistance has not been paid very long, but as they die off there is going to be a lot of them.

(By Mr. MacNicholl)

Q. How will that property be handled after you petition and are appointed, then how will the sale of that property be handled? In the future there will be more and more real estate to be sold. Will it be the policy of your department to sell it at public auction or competitive bids, or how?

A. We don't get it. If there are any heirs of the decedent, they petition for administration, and if they don't we go in and petition as a creditor. If there is any real estate, it has to be handled through the probate court. That is handled under the instruction of the probate court. It may be by either private or public sale. Of course you know we cannot sell the real estate of a deceased Old Age recipient as long as the spouse is alive, they are entitled to stay on the property.

CHAIRMAN TOMPKINS: The state stands in just the same position as any other creditor of the deceased?

A. Yes. There is a preference over some of them, but it has to be all handled through the probate court. ~~XXXXXXXXXX~~
(Witness excused)

The foregoing is a true transcript of my shorthand notes in the above matter.


Reporter.